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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 24457B	
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		First Named Inventor Phillips	
		Art Unit 3637	Examiner Tran

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

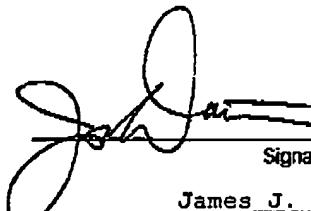
Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.

assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

attorney or agent of record.
Registration number 40,360


Signature

James J. Dottavio
Typed or printed name

740/321-7167

Telephone number

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

9-16-05

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below.

*Total of 1 forms are submitted.

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No. 2322 P. 5

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24457B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)
John D. Phillips) Group Art Unit 3637
)
Serial No. 10/051,486) Examiner A. Phi Dieu Tran
)
Filed January 18, 2002) Attorney Docket 24457B
)
For Laminated Roofing Shingle Having)
Staggered Shadow Lines and Method)
of Making the Same)

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AURGUMENTS ACCOMPANYING REQUEST FOR
PRE-APPEAL BRIEF CONFERENCE

Honorable Sir:

Pursuant to the procedure specified in the Notice published in the Official Gazette on July 12, 2005, a pre-appeal conference is requested in the present application for the following reasons.

Claims 1-45 are pending in the application. In the Office Action, dated May 18, 2005, these claims were finally rejected. The rejection of these claims contains clear error in that limitations of these claims are clearly not met by the cited references.

Claims 1-11 and 22 stand rejected as being unpatentable over US 5,666,766, to Weaver et al., in view of US Des. 336,347, to Hannah et al., and US 4,274,243, to Corbin et al.

As explained on pages 2-4 of Applicant's amendment filed July 18, 2005, Weaver teaches a shingle with an underlay having different colored granules corresponding to horizontal striations but fails to teach an overlay having at least one tab having a first shadow line and a remaining portion. The Examiner admitted this

deficiency in Weaver's disclosure, as acknowledged on page 3, of the Office Action, dated July 18, 2005.

For the teaching of a tab having a first shadow line and a remaining portion, the Examiner relies upon Hannah. However, Hannah does not teach an overlay having a tab having a first shadow line and a remaining portion, as required by the claims. Instead, Hannah teaches an overlay having tabs with a uniformly distributed layer of granules, which does not produce a shadow line. Hannah also fails to teach an underlay having a second shadow line and a remaining portion. Instead, Hannah teaches an underlay with a uniformly distributed layer of granules. The uniformly distributed layer of granules on the underlay does not produce a shadow line. Although Hannah teaches granules on an underlay that are darker in color than the granules on an overlay, and a portion of the underlay is exposed to reveal the darker granules, this does not result in an overlay having a tab with a first shadow line and a remaining portion, as required by the claims.

On page 11 of the final rejection mailed July 18, 2005, the Examiner argues that "Hannah [sic] figure 23 [sic] shows tabs [sic] a first shadow line (the darker part at the beginning of the tab) and a remaining portion." However, Hannah, in Fig. 23, shows three layers, each with a uniformly distributed layer of granules. Although the granules on one layer are darker in color than the granules on another layer, none of the layers has a first shadow line and a remaining portion.

As explained on pages 2-4 of Applicant's amendment filed July 18, 2005, Corbin fails to cure the deficiencies in Weaver and Hannah because Corbin fails to teach an overlay having a tab with a first shadow line that is darker in color than a remaining portion of the tab. Instead, Corbin teaches a randomly varying series of differently colored portions of a granule cover surface. There is still no teaching of an overlay having at least one tab having a first shadow line and a remaining portion. Accordingly, the rejection of claims 1-11 and 22 does not establish a *prima facie* case of obviousness, and should be withdrawn.

Claims 12-20 stand rejected as being unpatentable over Weaver in view of Hannah and Corbin.

As explained on pages 4 and 5 of Applicant's amendment filed July 18, 2005, Weaver fails to teach the step of applying a layer of granules to the outer surface of a coated base material, wherein darker granules are applied to portions of the base material corresponding to a leading edge of tabs of an overlay of a laminated shingle and a trailing edge of an underlay of the laminated shingle. Instead, Weaver teaches the application of a uniformly distributed layer of granules to the outer surface of a coated base material. Hannah is totally void any teaching of a method of making a laminated roofing shingle. Corbin fails to teach the step of applying a layer of granules to the outer surface of a coated base material, wherein darker granules are applied to portions of the base material corresponding to a leading edge of tabs of an overlay of a laminated shingle and a trailing edge of an underlay of the laminated shingle while lighter colored granules are applied to remaining portions of the tabs and the underlay. Accordingly, the rejection of claims 12-20 should be withdrawn for failing to establish a *prima facie* case of obviousness.

Claims 21 and 23 stand rejected as being unpatentable over Weaver in view of Hannah and Corbin.

As explained on pages 5 and 6 of Applicant's amendment filed July 18, 2005, Weaver fails to teach an overlay having a tab with a leading edge having granules thereon, wherein the leading edge is generally darker than a remaining portion of the overlay, and an underlay having a shadow line and a remaining portion, each having granules thereon, wherein the shadow line is generally darker than the remaining portion of the underlay, as required by claim 21. Hannah fails to teach an overlay having a tab with a leading edge having granules thereon, wherein the leading edge is generally darker than a remaining portion of the overlay. Corbin fails to teach an overlay having a tab with a leading edge having granules thereon, wherein the leading edge is generally darker than a remaining portion of the overlay. Moreover, Corbin fails to teach an underlay having a second shadow line and a remaining portion.

As explained on pages 7 and 8 of Applicant's amendment filed July 18, 2005, Weaver fails to teach a tab with a first shadow line, a remaining portion, and a layer of granules disposed on the first shadow line and the remaining portion of the tab in a

manner whereby the first shadow line is a different color or shade than the remaining portion, as required by claim 23. Hannah and Corbin fail to cure the deficiencies of Weaver in that each fails to teach a tab with a first shadow line, a remaining portion, and a layer of granules disposed on the first shadow line and the remaining portion of the tab in a manner whereby the first shadow line is a different color or shade than the remaining portion. Accordingly, the rejection of claims 21 and 23 should be withdrawn for failing to establish a *prima facie* case of obviousness.

Claims 24 and 26-32 stand rejected as being unpatentable over Weaver in view of Hannah and Corbin.

As explained on pages 9-10 of Applicant's amendment filed July 18, 2005, Weaver fails to teach an overlay having a tab having two colored portions, each being a different coloration or shade than the other, as required by the claims. Hannah fails to teach an overlay having a tab having two colored portions, each being a different coloration or shade than the other, and further fails to teach an underlay having two colored portions, each being a different coloration or shade than the other. Corbin fails to teach an underlay having two colored portions, each being a different coloration or shade than the other. Although Weaver and Corbin separately teach an overlay having a tab with two colored portions, each being a different coloration or shade than the other, and an underlay having two colored portions, each being a different coloration or shade than the other, but for hindsight vision afforded by Applicant's invention, there is no motivation to combine the teachings of Weaver and Corbin, and the references must be viewed without the benefit of impermissible hindsight vision afforded by Applicant's invention. Therefore, a *prima facie* case of obviousness has not been established and the rejection of claims 24 and 26-32 should be withdrawn.

Claims 34-45 stand rejected as being unpatentable over Weaver in view of Hannah and Corbin.

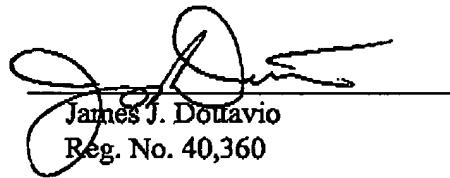
As explained on page 10 of Applicant's amendment filed July 18, 2005, Weaver, Hannah and Corbin, taken separately or combined, fail to teach adjacent portions of a tab and adjacent portions of an underlay that are a different shade or

coloration, as required by the claims. Accordingly, a prima facie case of obviousness has not been established and the rejection of claims 34-45 should be withdrawn.

The comments on pages 10-12 of the final rejection mailed May 18, 2005, likewise fail to address the salient features recited in the claims.

In view of the foregoing reasons, claims 1-45 are in condition for allowance. Favorable action is respectfully requested.

Respectfully submitted,



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Date 9-16-05

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